

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

LAND COURT DEPARTMENT
19 TL 000768 – HPS

TOWN OF WESTBOROUGH,
Plaintiff,

v.

WESTBOROUGH SPE, LLC, et als.
Defendants.

**DEFENDANT WESTBOROUGH SPE, LLC's SECOND NOTICE OF
SUPPLEMENTATION**

NOW, COMES, Westborough SPE, LLC (“Defendant”) and hereby supplements its response to its Motion to Vacate and to correct the record.

1. **BABCOCK & BROWN PARALLEL MEMBER LLC WAS THE SUCCESSOR-IN-INTEREST MANAGER OF WESTBOROUGH SPE LLC AND LOLONYON AKOUETE AND DENISE EDWARDS BECAME SUCCESSOR-IN-INTEREST MANAGER BY A DURABLE POWER OF ATTORNEY AND WRITTEN CONSENT OF MANAGER OF BABCOCK & BROWN PARALLEL MEMBER LLC; THE TOWN VIOLATED DUE PROCESS BY FAILING TO SERVE BABCOCK & BROWN PARALLEL MEMBER LLC AS THE PROPER MANAGER.**

Attached herewith as Exhibit A is a certified copy of the “STATE OF DELAWARE CERTIFICATE OF CONVERSION FROM A CORPORATION TO A LIMITED LIABILITY COMPANY PURSUANT TO SECTION 266 OF THE DELAWARE GENERAL CORPORATION LAW” that was filed with the Secretary of State for the State of Delaware on January 03, 2000. Exhibit A states that Babcock & Brown Administrative Services, Inc. was incorporated on October 23, 1997 and that the name was changed to Babcock & Brown Administrative Services LLC, a Delaware limited liability company in accordance with the provisions of Section 266 of the Delaware General Corporation Law on December 31, 1999.

Attached herewith as **Exhibit B** is a certified copy of a “**DELAWARE CERTIFICATE OF MERGER OF BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC WITH AND INTO BABCOCK & BROWN PARALLEL MEMBER LLC**” dated August 28, 2011 and filed with the Secretary of State for the State of Delaware on August 29, 2011. Pursuant to Section 18-209 of the Delaware Limited Liability Company Act, Babcock & Brown Administrative Services LLC merged with and into Babcock & Brown Parallel Member LLC, a Delaware limited liability company.

Thus, Babcock & Brown Parallel Member LLC, is the successor-in-interest to Babcock & Brown Administrative Services, Inc., and successor-in-interest to Babcock & Brown Administrative Services LLC. Therefore, Babcock & Brown Parallel Member LLC was the Manager at the time of the filing of the Town’s Complaint in the Land Court. Babcock & Brown Parallel Member LLC, by and through F. Jan Blaustein Scholes, by written consent of the Manager of Babcock & Brown Parallel Member LLC, and by Durable Power of Attorney, transferred the Manager role of Westborough SPE LLC to Lolonyon Akouete and Denise Edwards. See DEFENDANT WESTBOROUGH SPE, LLC’s [FIRST] NOTICE OF SUPPLEMENTATION filed with the Court on June 30, 2023.

Lastly, **Exhibit C** is an attested to copy of a Quitclaim Deed dated October 31, 1997 and recorded at Book 19369, Page 75 Worcester District Registry of Deeds. Such Quitclaim Deed indicates that the real property that is the subject matter of this case was sold by the Northside Realty Trust to Westborough SPE LLC, a Delaware limited liability company. Thus, Westborough SPE LLC is the owner of the real property in question and Lolonyon Akouete and Denise Edwards are the successor-in-interest Managers as discussed herein.

Dated: July 6, 2023

DEFENDANT WESTBOROUGH SPE, LLC,

By its attorneys,

/s/ Scott A. Schlager

Scott A. Schlager, BBO# 695421

Alvin S. Nathanson, BBO# 367480

Nathanson & Goldberg, P.C.

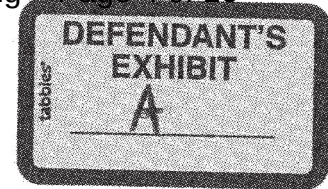
183 State Street, 5th Floor, Boston, MA 02109

Tel. (617) 909-4511 | Fax. (617) 210-4824 | sas@natgolaw.com | asn@natgolaw.com

CERTIFICATE OF SERVICE

I, Scott A. Schlager, Esq., hereby certify that a copy of the above-captioned Notice of Supplementation was filed electronically through the Massachusetts E-File system and a copy was transmitted electronically to counsel of record in the above-captioned matter on July 6, 2023.

/s/ Scott A. Schlager, BBO# 695421



Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE AND
CORRECT COPY OF THE CERTIFICATE OF CONVERSION OF A DELAWARE
CORPORATION UNDER THE NAME OF "BABCOCK & BROWN ADMINISTRATIVE
SERVICES, INC." TO A DELAWARE LIMITED LIABILITY COMPANY, CHANGING
ITS NAME FROM "BABCOCK & BROWN ADMINISTRATIVE SERVICES, INC." TO
"BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC", FILED IN THIS
OFFICE ON THE THIRD DAY OF JANUARY, A.D. 2000, AT 9 O'CLOCK A.M.

A handwritten signature in black ink, appearing to read "JBullock".

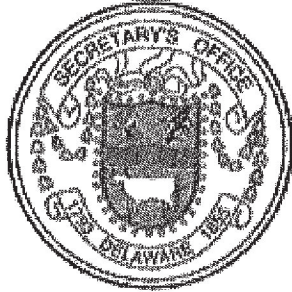
Jeffrey W. Bullock, Secretary of State

2811627 8100V
SR# 20232925381

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 203683809
Date: 07-05-23

The Secretary of State of Delaware issued a certificate for BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC whose file number is 2811627 on 07/05/2023 under request number 20232925381 for authentication number 203683809



W89194

State of Delaware - Division of Corporations



FAX

DOCUMENT FILING SHEET

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Priority 1 (Two Hr. Service)	Priority 2 (Same Day)	Priority 3 (24 Hour)	Priority 4 (Must Approvals)	Priority 5 (Reg. Approvals)	Priority 6 (Reg. Work)
DATE SUBMITTED <u>12-23-99</u> <u>01-03-00</u>		FILE DATE <u>12-23-99</u>			
REQUESTOR NAME <u>CORPAMERICA INC.</u>		FILE TIME <u>0900</u>			
ADDRESS <u>30 OLD RUDNICK LANE</u>					
<u>DOVER, DE 19901</u>					
ATTN. <u>Rose</u>					
PHONE <u>302-736-4300</u>					

NAME of COMPANY / ENTITY Babcock & Brown Administrative Services LLC

99 001001228
SRV NUMBER

2811627
FILE NUMBER

9168016
FILER'S NUMBER

RESERVATION NO.

TYPE of DOCUMENT Formation/Conversion

DOCUMENT CODE 00000 17217

CHANGE of NAME _____ CHANGE of AGENT / OFFICE _____ CHANGE of STOCK _____

CORPORATIONS		
FRANCHISE TAX	YEAR _____	\$ _____
FILING FEE TAX		\$ _____
RECEIVING & INDEXING		\$ _____
CERTIFIED COPIES	NO. <u>1</u>	\$ _____
SPECIAL SERVICES		\$ _____
KENT COUNTY RECORDER		\$ _____
NEW CASTLE COUNTY RECORDER		\$ _____
SUSSEX COUNTY RECORDER		\$ _____
TOTAL:		\$ _____

METHOD of RETURN	
<input checked="" type="checkbox"/>	MESSENGER / PICKUP
<input type="checkbox"/>	FED. EXPRESS Acct. # _____
<input type="checkbox"/>	REGULAR MAIL
<input type="checkbox"/>	FAX No. _____
<input type="checkbox"/>	OTHER _____

COMMENTS / FILING INSTRUCTIONS
<u>Converting to Babcock & Brown</u> <u>Administrative Services, Inc.</u> <u>*EFFECTIVE 12/31/99*</u>

CREDIT CARD CHARGES

You have my authorization to charge my credit card for this service:

☐☐☐☐☐ - ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Exp. Date _____

Signature _____ Printed Name _____

XX

AGENT USE ONLY

INSTRUCTIONS

1. Fully shade in the required Priority square using a dark pencil or marker, staying within the square.
2. Each request must be submitted as a separate item, with its own Filing sheet as the FIRST PAGE.

SODDFS3 03-06-95

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A CORPORATION TO A LIMITED LIABILITY COMPANY
PURSUANT TO SECTION 266 OF THE
DELAWARE GENERAL CORPORATION LAW

(1) The name of the corporation immediately prior to filing this Certificate is **Babcock & Brown Administrative Services, Inc.**

(2) The date the Certificate of Incorporation was filed on is October 23, 1997.

(3) The original name of the corporation as set forth in the Certificate of Incorporation is Babcock & Brown Administrative Services, Inc.

(4) The name of the limited liability company as set forth in the formation is **Babcock & Brown Administrative Services LLC.**

(5) The conversion has been approved in accordance with the provisions of Section 266.


By: Jan Blaustein Scholes, Authorized Officer

Dated: December 31, 1999

CERTIFICATE OF FORMATION

OF

BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC

This Certificate of Formation of Babcock & Brown Administrative Services LLC, a Delaware limited liability company (the "Company"), dated as of December 31, 1999, is being duly executed and filed by Babcock & Brown Inc., a California corporation, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. §18-101, et seq.) (the "Delaware Act").

FIRST: The name of the limited liability company formed hereby is **Babcock & Brown Administrative Services LLC**.

SECOND: The address of the registered office of the Company in the State of Delaware is c/o CorpAmerica, Inc., 30 Old Rudnick Lane, Dover, Delaware 19901.

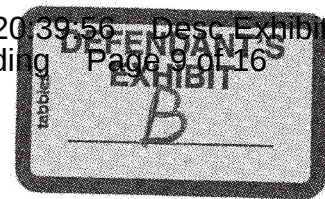
THIRD: The name and address of the registered agent for service of process on the Company in the State of Delaware is CorpAmerica, Inc., 30 Old Rudnick Lane, Dover, Delaware 19901.

IN WITNESS WHEREOF, the undersigned, an authorized person as described in the Delaware Act, has executed this Certificate of Formation as of the date first above written.

Authorized Person:

Babcock & Brown Inc.,
a California corporation


By: Ian Blaustein Scholes
Its: Vice President



Page 1

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC", A DELAWARE
LIMITED LIABILITY COMPANY,

WITH AND INTO "BABCOCK & BROWN PARALLEL MEMBER LLC" UNDER
THE NAME OF "BABCOCK & BROWN PARALLEL MEMBER LLC", A LIMITED
LIABILITY COMPANY ORGANIZED AND EXISTING UNDER THE LAWS OF THE
STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE ON THE
TWENTY-NINTH DAY OF AUGUST, A.D. 2011, AT 2:33 O'CLOCK P.M.

A handwritten signature in black ink, appearing to read "JBullock".

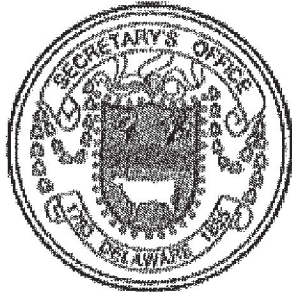
Jeffrey W. Bullock, Secretary of State

2811627 8100M
SR# 20232925381

Authentication: 203683808
Date: 07-05-23

You may verify this certificate online at corp.delaware.gov/authver.shtml

The Secretary of State of Delaware issued a certificate for BABCOCK &
BROWN ADMINISTRATIVE SERVICES LLC whose file number is 2811627
on 07/05/2023 under request number 20232925381 for authentication
number 203683808



State of Delaware
Secretary of State
Division of Corporations
Delivered 02:33 PM 08/29/2011
FILED 02:33 PM 08/29/2011
SRV 110960806 - 4370415 FILE

DELAWARE
CERTIFICATE OF MERGER
OF
BABCOCK & BROWN ADMINISTRATIVE SERVICES LLC
WITH AND INTO
BABCOCK & BROWN PARALLEL MEMBER LLC

August 28, 2011

Pursuant to Section 18-209 of the Delaware Limited Liability Company Act (the "DLLCA"), Babcock & Brown Parallel Member LLC, a Delaware limited liability company (the "Company"), in connection with the merger (the "Merger") of Babcock & Brown Administrative Services LLC, a Delaware limited liability company ("Target"), with and into the Company, hereby certifies as follows:

FIRST: The respective names and states of formation or incorporation of the constituent companies to the Merger are as follows:

<u>Name</u>	<u>State of Formation or Incorporation</u>
Babcock & Brown Parallel Member LLC	Delaware
Babcock & Brown Administrative Services LLC	Delaware

SECOND: An Agreement and Plan of Merger, dated as of August 29, 2011, between the Company and Target (the "Merger Agreement"), setting forth the terms and conditions of the Merger, has been approved, adopted, certified, executed and acknowledged by each of the Company and Target.

THIRD: The Company shall be the surviving limited liability company (the "Surviving Company") of the Merger. The name of the Surviving Company is "Babcock & Brown Parallel Member LLC".

FOURTH: The Merger shall become effective upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

FIFTH: An executed copy of the Merger Agreement is on file at the office of the Surviving Company located at 50 California Street, Suite 3610, San Francisco, California 94111. A copy of the Merger Agreement will be furnished by the Surviving Company, on request and without cost, to any member of the Surviving Company or any member of Target.

[Signature page follows.]

The undersigned is signing this Certificate of Merger as of the date first written above.

BABCOCK & BROWN PARALLEL MEMBER
LLC

By:

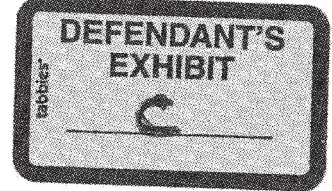
A handwritten signature in cursive script, appearing to read "Chaye Beshorse", written over a horizontal line.

Name: Chaye Beshorse

Title: Secretary

129560

QUITCLAIM DEED



LESLIE S. CAREY, as she is Trustee of NORTHSIDE REALTY TRUST under Declaration of Trust dated January 14, 1994 duly recorded with the Worcester District Registry of Deeds on January 14, 1994 in Book 15975, Page 213 having an address c/o New England Management and Realty Corporation, 55 New York Avenue, Framingham, Massachusetts 01701

for consideration paid and in consideration of Nine Million and One Hundred Fifty One Thousand Four Hundred and Forty Nine Dollars and 00/100 (\$9,151,449.00)

grants to WESTBOROUGH SPE LLC, a Delaware Limited Liability Company with a principal place of business at c/o Babcock & Brown Administrative Services, Inc., Two Harrison Street, San Francisco, CA 94105

with Quitclaim Covenants, the following described property:

that certain parcel of land, together with any buildings and improvements thereon, located at 231 Turnpike Road, in the Town of Westborough, Worcester County, Massachusetts, which are shown as Lot #1 on a plan entitled "Plan of Land in Westborough, Worcester County, ...", dated April 11, 1997, prepared by Beals and Thomas, Inc. recorded with the Worcester District Registry of Deeds, Plan Book 714, Plan 77 and being more particularly bounded and described according to said plan on Exhibit A attached hereto and made a part hereof.

Said Lot 1 contains 1,277,351 square feet more or less, or 29.324 acres, more or less, according to said plan.

Said Premises are conveyed subject to and together with the benefit of easements, restrictions and other matters of record, insofar as in force and applicable.

Without limitation, said premises are conveyed together with the following:

(i) rights and easements set forth in that certain Declaration of Reciprocal Covenants, Easements and Restriction dated April 9, 1997 and recorded with said Deeds in Book 18745, Page 313 as being for the benefit of said Lot 1 and subject to the rights, easements and restrictions set forth therein as the same affect Lot 1, which are reserved for the benefit of Lots 2 and 3 as shown on said Plan, and (ii) Utility Easement "A", Utility Easement "B" and Utility Easement "D" all as shown on Plan Book 710, Plan 91.

GOULD & ETTEMBERG, P.C.
370 Main Street
Worcester, MA 01608
Tel: (508) 752-6733

GUARANTY ABSTRACT CO
Vol 151 Pg 98

97 NOV 21 PM 2:19

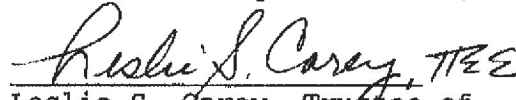
ROUTE 135 at Route 9, WESTBOROUGH, MA

Said Premises are conveyed subject to real estate taxes due the Town of Westborough for the 1998 tax fiscal year, which the Grantee hereof assumes and agrees to pay by the acceptance and recording of this deed.

The undersigned hereby certify that (i) Northside Realty Trust is in full force and effect and has not been amended, rescinded or terminated, (ii) that the undersigned is a trustee of the trust and (iii) that the undersigned has been directed by all of the beneficiaries of said trust to execute, seal, acknowledge and deliver this deed.

Grantor intends to convey and does hereby convey a portion of the premises conveyed to Grantor by Deed of Stanley Miller, Trustee dated April 13, 1994 recorded with the Worcester District Registry of Deeds Book 16210, Page 372.

EXECUTED as a sealed instrument the 31st day of October, 1997.



Leslie S. Carey, Trustee of
Northside Realty Trust,
and not individually

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk
Middlesex, ss.

October 31, 1997

Then personally appeared before me the above named Leslie S. Carey as she is Trustee of Northside Realty Trust and acknowledged the foregoing instrument to be his free act and deed, before me,


~~Kenneth J. Miskiewicz~~ Notary Public
My Commission Expires: 5/19/2000
KENNETH J. MISKIEWICZ

DEEDS REG 20
WORCESTER

11/21/97

TAX - 41730.84
CASH 41730.84

5032A140 14:02
EXCISE TAX ..

EXHIBIT A

METES AND BOUNDS DESCRIPTION

Lot 1
Westborough, Massachusetts
W-45.30

A certain parcel of land in the Commonwealth of Massachusetts, County of Worcester, Town of Westborough situated on the northerly side of Boston Worcester Turnpike, Route 9, and shown as Lot 1 on a plan entitled "Plan of Land in Westborough, Worcester County, ...", dated April 11, 1997, prepared by Beals and Thomas, Inc. More particularly bounded and described as follows:

Beginning at a point in the east bank of the Assabet River at Boston Worcester Turnpike, thence running;

N 30 58 22 W 1123.34 feet to a point, said course being by land now or formerly of Brown Realty Trust, thence turning and running;

N 86 07 42 E 1022.91 feet to a point, thence turning and running;

N 03 52 18 W 501.72 feet to a point, thence turning and running;

N 86 07 42 E 627.83 feet to a point, thence turning and running;

N 58 30 39 E 523.55 feet to a point, said four courses being by land now or formerly of P.V. Davis Construction Company, Inc., thence turning and running;

S 18 32 25 E 9.51 feet to a Worcester County Highway bound, thence turning and running;

S 17 00 25 E 69.96 feet to a point, thence turning and running;

S 15 35 25 E 79.20 feet to a Worcester County Highway bound, thence turning and running;

S 11 50 25 E 63.36 feet to a point, thence turning and running;

S 09 15 25 E 67.32 feet to a Worcester County Highway bound point, thence turning and running;

S 06 35 25 E 66.00 feet to a point, thence turning and running;

S 06 25 25 E 74.57 feet to a Worcester County Highway bound, thence turning and running;

S 05 48 30 E 73.06 feet to a Worcester County Highway bound, thence turning and running;

S 04 09 29 E 190.38 feet to a point, thence turning and running;

BEALS AND THOMAS, INC.

Lot 1

Westborough, Massachusetts

W-45.30

Page 2 of 2

Southerly by a curve to the right having a radius of 1000.00 feet and a length of 215.67 feet to a point, said last 10 courses being by the westerly line of Milk Street, thence turning and running;

S 52 34 33 W 376.10 feet to a point, thence turning and running;

S 86 07 42 W 209 07 feet to a point, thence turning and running;

N 49 56 56 W 33.00 feet to a point, thence turning and running;

Northwesterly by a curve to the left having a radius of 335.00 feet and a length of 76.89 feet to a point, thence turning and running;

S 86 07 42 W 213.61 feet to a point, thence turning and running;

N 03 47 36 W 319.22 feet to a point, thence turning and running;

S 86 07 42 W 337.66 feet to a point, thence turning and running;

S 03 52 18 E 112.44 feet to a point, thence turning and running;

S 86 07 42 W 437.86 feet to a point, said last nine courses being by Lot 2, thence turning and running;

S 03 52 18 E 925.00 feet to a point, said course being in part by Lot 2 and in part by land now or formerly of Lillian E. Brown Life Estate, thence turning and running;

S 86 07 42 W 148.31 feet to the point of beginning, said course being by the northerly line of Boston Worcester Turnpike.

Containing 1,277,351 square feet more or less, or 29.324 acres, more or less.

Subject to any and all existing rights and easements of record.

RJB/vmb/004530M(B007

The plan referenced herein is recorded herewith as Plan Book 714 Plan 77 .

BEALS AND THOMAS, INC.

ATTEST: WORC. Anthony J. Vigliotti, Register